

## CIVIL DOCKET

**UNITED STATES DISTRICT COURT**

**Jury demand date:**

D. C. Form No. 106A Rev.

TITLE OF CASE				ATTORNEYS				
<div>UTICA NATIONAL BANK &amp; TRUST COMPANY, a National Banking Association,</div> <div>v.</div> <div>4-1-76 <del>DAVE W. RHONE</del> pl</div> <div>vs</div> <div>Flynn W. Stewart, Flynn W. Stewart, II, and Roland Stewart</div> <div>Third party defendants</div> <div>James O. Ellison BOONE, ELLISON &amp; SMITH 914 World Bldg. Tulsa, Okla. 74103 (3rd pty defts. Flynn W. Stewart, Flynn W. Stewart II and Roland Stewart)</div> <div>James O. Ellison (Stewarts) 914 World Bldg. Tulsa 74103</div>				<div>For plaintiff:</div> <div>William C. Anderson (585-5541) 5-82-121/ 1200 Atlas Life Building Tulsa 74103</div> <div>For defendant:</div> <div><del>Roger Lee</del> <del>Fillmore, Lambert, Farabee &amp; Purtle</del> <del>Title Guaranty Bldg.</del> <del>P. O. Box 5147</del> <del>Wichita Falls, Texas 76307</del> <del>Thomas R. Brett 201 W 5, Suite 400</del> <del>1700 4th National Bank Bldg.</del> <del>Tulsa, Oklahoma 74143</del> Jack Banner (3rd party defts.) Banner &amp; McIntosh 1200 Hamilton Bldg. Wichita Falls, Texas 76301</div>				
STATISTICAL RECORD		COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.	
J.S. 5 mailed 11/1/74		Clerk		10/25	W. Anderson	15.00		
J.S. 6 mailed 5-1-78		Marshal		10-31-74	C/D #20		15 00	
Basis of Action: money judgment on promissory note		Docket fee						
Action arose at:		Witness fees						
		Depositions						

DATE	PROCEEDINGS	Date Order or Judgment Noted
10-25-74	1. Complaint, filed. rm (Def. counsel agreed to acceptance of service. Copy of compltf. mailed.)	
11-18-74	2. MOTION to Dismiss, filed.jj (with affidavit of Tom Brett) MO: It is Ordered by the Court that pltf. have 10 days to respond to deft's Mtn. to Dismiss. (AEB-J)jj	
11-19-74	3. Brief in support of Deft.'s Motion to Dismiss, filed. v	
11-29-74	4. Brief in opposition to deft's motion to dismiss, filed.k	
1-22-75	Order, filed, transferring case to Judge H. Dale Cook. (AEB-J)k	
2-19-75	5. Order, filed, that deft's motion to dismiss is denied. (HDC-J)hm (copies mailed)	
3-3-75	6. Answer and counterclaim, filed. hm	
3-3-75	7. Deft's motion to maintain a third party action adding additional defts. herein, filed. hm	
3-4-75	MO: Ordered that pltf. file a responsive brief within 10 days to the mo/maintain a third party action adding addit. defts. herein. (HDC-J)hm	
3-14-75	8. RESPONSE of pltf. to motion of deft. to maintain a third party action adding additional defts. herein, filed.	
3-14-75	9. Reply to Counterclaim, filed. mm	
4-8-75	10. Order, filed, granting def.'s mo/maintain a 3rd party action adding addl. defts. (HDC-J)rm - copies mailed	
4-10-75	11. Third-party complaint, filed. hm Summons issued.	
4-29-75	Summons, ret. & filed: served Flynn W. Stewart, Flynn W. Stewart II and Roland Stewart at Wichita Falls, Tx. 4-17-75. (USM \$12.24)g	
5-8-75	12. Defts. Stewarts' motion to dismiss, filed. hm	
5-21-75	13. Ltr. from James Ol Ellison 5-20-75 filed as entry of appear. lm	
7-10-75	14. Applic. of third party defts. for ext. of time in which to file brief (in support of mo/dismiss), filed, with order granting until 7-25-75 to file same. (HDC-J)hm (copies mailed)	
7-25-75	15. Applic. of third party defts. for ext. of time in which to file brief, filed. hm	
7-29-75	Order, filed, granting third party defts. 10 days in which to file brief in support of mot. to dismiss. (HDC-J)k cps mld (part of appl.)	
8-1-75	16. Brief in Support of 3rd pty defts' Flynn W. Stewart, Flynn W. Stewart II and Roland Stewart, Motion to Dismiss, filed. lm	
8-1-75	MO: It is ordered by the Court that pltf. and deft. are given ten days to file responsive brief to 3rd pty defts. motion to dismiss. (HDC-J). lm ltrs mld.	
8-11-75	17. Response Brief to 3rd pty defts' Motion to Dismiss, filed. lm	

## D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order or Judgment Noted
	18.	
8-11-75	Response of Plaintiff, Utica National Bank & Trust Company, to Motion of 3rd Party Defendants, Flynn W. Stewart, Flynn W. Stewart II, & Roland Stewart, to Dismiss 3rd-Party Complaint, filed. mm	
9-18-75	19 Order, filed, overruling 3rd-pty defts' Motion to Dismiss. (HDC-J)lm cps mld	
10-2-75	Deposition of <u>Gerald F. Barnett</u> on behalf of the deft. taken before Frank L. Peterson, CSR on 3/14-15/75 W/fees of \$187.50 pd by the deft., filed. mm	
10-21-75	20. Mtn. of Pltf. to Amend Complaint to Maintain an Action Against the 3rd Pty. Defts., Flynn W. Stewart, Flynn W. Stewart II, and Roland Stewart, filed, w/amended complaint attached.jj	
10-28	21. Order, filed, granting mot. of pltf. to amend complaint, filed. (HDC-J)g cpies mld.	
10-28	22. Amended complaint, filed. g	
11-7	23 Answer of deft. Dave W. Rhone to amended complaint, filed. g	
11-19	24. Appl. of 3rd Party Defts., Flynn W. Stewart, Flynn W. Stewart, II, & Roland Stewart, for ext. of time to ans. amended compl., fld. v -o as part of pldg.	
11-24	Order, (part of appl.) filed, granting defts. until 11-27-75 to answer or otherwise respond. (HDC-J)g <i>g. mld.</i>	
12-2	25. Appl. for ext. of time to ans. amend. compl., fld. by 3rd Party Defts. v -o as part of appl., all to Judge.	
12-4	26. Order (part of applic.), filed, granting third party defts. Stewarts until 12-7-75 to ans. the amended comp. (HDC-J)hm (copies mailed)	
12-8	27. Reply to Counterclaim fld. by Pltf., w/lve. of Court. (HDC-J)v <i>cps mld by atty.</i>	
12-11	28. Ans. of Defts, Flynn W. Stewart, Flynn W. Stewart II, & Roland Stewart, Amended Compl. of Pltf, & third pty. compl. of Dave W. Rhone, filed. tc	
12-15	MO: Case set for PT hearing 1-9-76 at 3:30 p.m. (HDC-J)hm	
1-8-76	29. Pre-Trial Conference Memorandum, filed. tc	
1-9	MO: Pre-trial hearing held. Statements made. Discovery to be complete within 30 days. Parties to file briefs within 50 days. Pltf. to prepare PT order within 20 days after discovery (50 days), and case set for jury trial 6-14-76 at 10:00 a.m. (HDC-J)hm	
2-3	30. Appl. for Enlargement of Time to Complete Discovery, until 3-9-76, filed. jj 0 to J	
2-4	31. Order, filed, granting parties 30 days from 2-8-76 to complete discovery, and an addl. 20 days thereafter to prepare and present Pretrial order for approval. (HDC-J)g cp mld.	
2-19	32. Notice by pltf. of taking depositions of E. W. Williams, Jr. and Mike Sherbert, filed. rm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
	until 4-9-76	
3-3-76	33. APPL. for Enl. of Time to Complete Discover/ filed.jj 0 to J	
3-5	34. Order, filed, granting parties til 4-9-76 to complete discovery & til 4-29-76 to file PT Order. (HDC-J)k cps mld	
3-8	35. Notice of taking depositions of E. W. Williams, Jr. and Mike Sherbert at 9:00 a.m. on 4-8-76. ph	
4-1	36. Joint stipulation for dismissal as to deft. Dave W. Rhone only, filed. ph	
4-1	37. Order of dismissal as to deft. Dave W. Rhone only, with prejudice, filed and entered;and that Pltf's first/second cause of action as to defts. Stewart is not dismissed; that deft. Dave W. Rhone's Counter-Claim against pltf. is dismissed with prejudice and that deft. Dave W. Rhone's third party complaint against the Stewart defts. is dismissed with prejudice.(HDC-J)ph cps mld by Pltf. counsel	
4-1	38. Joint motion to stay action, filed. ph	
4-1	39. Order, filed, that all further proceedings are stayed until a decision of the Fifth Circuit in Appeal No. 75-3305 is reached or until further order of the Court. (HDC-J)ph cps mld by Pltf. Counsel.	
9-12-77	40. Notice by pl-f. of filing of Court of Appeals opinion in Case. No. 75-3305, filed. rm	
9-22	MO: Parties directed to file within 10 days a statement as to whether they wish this case to remain stayed pending final outcome of case in NDT or whether they wish this case to go forward. (HDC-J)hm (letter written parties)	
10-3	MO: Parties given until 10-7-77 to file status report on case as mentioned in MO of 9-22-77. (HDC-J)ph	
10-7	41. Joint statement of parties as to status of case, filed. ph (0 to J)	
10-7	42. Order, filed, that Court's stay order of 4-1-76 be continued pending re-trial of Utica Nat'l Bank & Trust,pltf vs. Happy Wheat Growers, et al Case CA-2-74-64 in the US Dist Ct for ND of Texas, Amarillo Div. Pltf. is directed to furnish the Ct. with a copy of the verdict and judgment entered upon re-trial of that action, w/copies of all orders entered in connection w/post-tiral motions contesting such verdict and judgment or any part thereof. (HDC-J)ph cps mld	
4-12-78	43. Joint stipulation for dismissal, filed. rm (0)	
4-13	44. Order of dismissal, filed and entered, that pltf's first cause of action is dismissed as to defts. Flynn W. Stewart, Flynn W. Stewart II and Roland Stewart with prejudice; further that pltf's second cause of action is dismissed as to defts. Flynn W. Stewart, Flynn W. Stewart II and Roland Stewart w/o prejudice; each party shall bear its own costs. (HDC-J)ph cps mld	
7-11-80	DEPOSITION of Gerald F. Barnett returned to deft. hm	